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C O N F I D E N T I A L SECTION 01 OF 02 BUCHAREST 000998

SIPDIS

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TAGS: [MARR](#) [MOPS](#) [PREL](#) [PGOV](#) [RO](#) [IZ](#)

SUBJECT: MOD ASKS IF THE PROPOSED IRAQI EOL STILL MAKES  
SENSE?

REF: A. BUCHAREST 00986

[1](#)B. STATE 132140

[1](#)C. BAGHDAD 03940

Classified By: CHARGE D'AFFAIRS, a.i. Jeri Guthrie-Corn; Reasons 1.4(b)  
and(d).

[1](#)1. (C) MOD Secretary of State (Deputy Defense Minister) Corneliu Dobritoiu met with U.S. and UK Embassy officers on 12/19 to raise in more depth concerns with the state of play regarding the continued presence of Romanian troops in Iraq. The meeting with the U.S. (Charge, POLMIL, ARMATT, and ODC Chief) and the UK (DATT and POLMIL) was requested by Dobritoiu in order to garner views on the eve before Romania sends its team of negotiators to Baghdad to begin discussions on the Exchange of Letters (EOL). (The Romanian interagency team in two groups will arrive in Baghdad Saturday and Monday). MOD Director General for Policy Dragos Ghercioiu, Director for International Cooperation BGen Cotoara, Deputy Director for IC Frunzetti, and a MOD lawyer (who will be a member of the negotiation team to Baghdad) were also present.

[1](#)2. (C) Dobritoiu said that while Romania has a strong political commitment to remain in Iraq, the draft Iraqi Continued Presence legislation presents some real issues. The time-frame that Romanian troops will have to complete their tasks and then withdraw by the end of July 2009 was a challenge for Romania. To complicate matters, the Iraqis have not yet defined these tasks in order for the Romanians to understand what legal protections and potentially training are needed for Romanian forces. He noted that for Romanian troops to remain in Iraq after expiration of the UNSCR jurisdiction under article four of the Continued Presence draft legislation is an issue. It was unclear whether Romanian troops would have their rights to self-defense preserved, or whether they would be subject to Iraqi judicial processes without the protections that would be guaranteed to Romanian soldiers under Romanian law. Furthermore, he asked, after the draft Iraqi Continued Presence legislation is passed, what could Romania negotiate in the EOL to address the legal concerns. He said that the Ministry of Justice has judged the ambiguities in the draft legislation unacceptable, and unless the EOL has the same legal weight as legislation passed by the Iraqi Parliament, it may prove insufficient for the legal framework that Romania requires for its continued participation in the coalition. He also wondered whether the Iraqi Government's draft Continued Presence legislation reflected an attempt by Baghdad to impose jurisdiction issues that undermine the coalition's ability to remain.

13. (C) Dobritoiu said Romania understands the domestic pressure in Iraq, but unless the Romanian negotiating team can address the gaps in the legal framework, he warned, the results could generate a negative political reaction from President Basescu and the Supreme Council for National Defense (CSAT), and probably from the Romanian Parliament. Contrary to the language in the draft legislation, according to the MOD lawyer, Romania considers that "self-defense is committed with intent," and therefore this action could open up Romanian soldiers to Iraqi prosecution under the current language (see Ref. A). The lawyer stated that in his analysis the legislation does not allow the EOL to address the legal issues raised, nor will the EOL have the same legal and binding power. Romania believes that the EOL will only cover defining the missions and tasks. Dobritoiu underscored that Romania is fully committed to seeing through its participation in the coalition, but especially with a new Romanian Parliament in place, the government would prefer to avoid a "long, painful debate (on the legal questions) to obtain approval for the continuation of Romanian forces in Iraq," which by definition will be under a legal framework different than the current applicable UNSCR and thus will require Parliamentary approval at some stage. Dobritoiu asked, "Is it worth trying to meet these deadlines without a clear understanding of mission requirements and the Government of Iraq's intent?"

14. (C) Dobritoiu also raised the operational limits introduced by the ambiguities in the Iraqi position: without a clear understanding of the mission requirements, how is Romania to evaluate the force package that needs to be

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deployed? He noted that troop rotations, planning, and training were dependent on knowing the mission. The forces deploying in January have been trained, manned and equipped to complete the current missions. A change of these missions will result in some change in required training and possibly manning and equipping. While he hoped training could be conducted in Iraq, he noted that without a clear picture, Romania may need to relocate its contingent to Kuwait either for subsequent training or as a prelude to repatriation.

15. (C) Questions about the equipment in Iraq would also need to be factored in Romania's planning, according to Dobritoiu. He also pointed out that new tasks could require new equipment, additional funding, different training, and would have a significant impact on the military's training and deployment cycle. He asked rhetorically if Romania should deploy a new force package for Iraq in January just to withdraw in seven months? He reiterated that it was not a matter of resources, but rather a reflection on Romania's political commitment. He said he would remain "open-minded" for Romania "to continue to assume the risks for its troop deployments to Iraq as required." Dobritoiu pledged to continue unwavering support to this national commitment. Nonetheless, he warned the political risks were real, and expressed skepticism that even after satisfactory negotiations on the EOL with the Iraq, the yet unassembled, new Romanian Parliament could meet in emergency session before January 1 to provide political and legal cover for the continuity of Romania's deployment in Iraq.

16. (C) Comment: Emboffs noted that the UK said it was satisfied the draft Continued Presence legislation would provide HMG the minimal legal coverage. They cited CPA article 17 as a back-up legal support: it is Mission's understanding that that provision also ends on December 31. Romanian officials acknowledged that, but noted that the Iraqi legislation and the prospect of the EOL did not appear to meet the minimum requirements under Romanian law. Emboffs supported the Romanian delegation going to Baghdad to negotiate the EOL, but noted that ultimately the decision on whether Romania can accept whatever the Government of Iraq is willing to concede to Romania was a political decision that only Romania can make based on its domestic requirements.

End Comment.  
GUTHRIE-CORN